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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,935	11/26/2003	Myoung-Soo Kim	8836-224 (IB12207-US)	9638
22150	7590	12/15/2004		EXAMINER
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			VU, HUNG K	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
	KIM, MYOUNG-SOO	
Examiner	Art Unit	
Hung Vu	2811	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 August 2004.
2a) This action is **FINAL**. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) 14-29 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-13 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention of group I, claims 1-13 in the reply filed on 08/23/04 is acknowledged. The traversal is on the ground(s) that the two groups of claims include subject matters that are classified commonly in class 438. This is not found persuasive because claims 1-13 are classified in class 257 and claims 14-29 are classified in class 438.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 14-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08/23/04.

Claim Objections

3. Claim 9 is objected to because of the following informalities: In claim 9, line 3, "the lower" should be changed to "an lower" for clarity. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 10 and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Seshadri et al. (PN 6,730,950).

Seshadri et al. discloses, as shown 5C, 6B and 10C, a semiconductor device formed over a semiconductor substrate including a memory cell area and a peripheral circuit area, the semiconductor device comprising:

a MOS transistor (69c) having a floating gate electrode, the MOS transistor being disposed at the memory cell area;

an OTP ROM capacitor having a lower electrode (61), an upper intermetal dielectric (68), and an upper electrode (66) with are stacked in the order named, the OTP ROM capacitor being disposed over the MOS transistor;

a floating ate plug (61c) connecting the floating gate electrode with the lower electrode, wherein the floating gate electrode, the floating gate plug, and the lower electrode constitute a conductive structure which is electrically insulated. Note that Seshadri et al. discloses the same structure as claimed, therefore, it is inherent that the structure is an OTP ROM.

With regard to claim 2, Seshadri et al. discloses the device further comprising a capacitor that is disposed in the peripheral circuit area and includes a lower capacitor electrode, a dielectric film, and an upper capacitor electrode which are stacked in the order named.

With regard to claim 3, Seshadri et al. discloses the lower electrode and the upper electrode are identical to the lower capacitor electrode and the upper capacitor electrode in material and thickness.

With regard to claim 4, Seshadri et al. discloses the upper intermetal dielectric and the dielectric film are identical in material and thickness.

With regard to claim 7, Seshadri et al. discloses the device further comprising a lower intermetal dielectric (69d) formed below the upper intermetal dielectric.

With regard to claim 10, Seshadri et al. discloses the device further comprising a contact plug (61a,61c) which is connected to an impurity region of the semiconductor substrate and is made of the same material as the floating gate plug.

With regard to claims 12 and 13, Seshadri et al. discloses the upper electrode comprises a first upper electrode (upper portion) and a second upper electrode (lower portion) disposed over the first upper electrode.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri et al. (PN 6,730,950).

With regard to claim 5, Seshadri et al. discloses the claimed invention including the device as recited in the rejection above. Seshadri et al. does not disclose the material of the upper intermetal dielectric layer. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the device of Seshadri et al. having the materials as that claimed by Applicant, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With regard to claim 11, Seshadri et al. discloses the claimed invention including the device as recited in the rejection above. Seshadri et al. does not clearly disclose the device further comprising a bitline, wherein the contact plug connecting the bitline to the impurity region of the semiconductor substrate. However, in Figures 1, 2 and 6A, Seshadri et al. discloses a diagram of the circuit that includes a bitline. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the device of Seshadri et al. including the bitline in order to provide the input signal to the device.

6. Claims 6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri et al. (PN 6,730,950) in view of Tu et al. (PN 6,602,749).

With regard to claim 6, Seshadri et al. does not disclose the upper intermetal dielectric layer is disposed over an entire surface of the substrate. However, Tu et al. discloses a device comprising an upper intermetal dielectric layer (28) disposed over an entire surface of a substrate. Note Figure 1 of Tu et al.. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form an upper intermetal dielectric layer disposed over an entire surface of the substrate, such as taught by Tu et al. in order to further prevent the moisture from entering the active device.

With regard to claims 8 and 9, Seshadri et al. does not disclose the lower intermetal dielectric forms an opening and the upper electrode is formed in the opening. However, Tu et al. discloses the device having a lower intermetal dielectric (24) formed below an upper intermetal dielectric (28), wherein the lower intermetal dielectric forms an opening and the upper electrode is formed in the opening. Note Figure 1 of Tu et al.. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the device of Seshadri et al. having a lower intermetal dielectric formed below the upper intermetal dielectric, wherein the lower intermetal dielectric forms an opening and the upper electrode is formed in the opening, such as taught by Tu et al. in order to further increase a surface coupling capacitor of the device.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung K. Vu whose telephone number is (571) 272-1666. The

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examiner can normally be reached on Mon-Thurs 6:00-3:30, alternate Friday 7:00-3:30, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie C. Lee can be reached on (571) 272-1732. The Central Fax Number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Vu

November 12, 2004

Hung Vu

Hung Vu

Patent Examiner